IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1113 OF 2007
IN
CRIMINAL APPEAL NO.872 OF 2007

Akthar Moharam Hussain Farooqi ..Applicant
Versus
The State of Maharashtra ..Respondents

Mr.Niranjan Mundargi for the applicant.

Mr.A.S.Shitole APP for the State.

CORAM : B.H.MARLAPALLE,J

DATE : 8TH OCTOBER, 2007

PC

1. This is an application for bail during the pendency of Criminal Appeal No.872/2007 filed by the applicant/accused no.1. The applicant has been convicted for the offence punishable under Section 489(C) read with section 120-B of IPC or in the alternative read with section 34 of IPC. On the first count, he is sentenced to suffer RI for 10 years and on the 2nd count, he is sentenced to suffer RI for 7 years. The fine on the first count is Rs.5 lakhs and on the 2nd count, is Rs.1 lakh.

2. The applicant prays for being released on bail solely on the ground that he was taken in custody on 28.7.2000 and he remained in custody and he has already undergone more than 7 years of imprisonment. In default of payment of fine of Rs.5 lakhs, he has to undergo further RI for 1 year and on default of payment

of fine of Rs.1 lakhs, he was required to undergo further RI of 1 year. The trial Court has also directed that the substantive sentences shall run concurrently. The learned Counsel for the applicant placed reliance on the order passed by the Apex Court in the case of **Uday Mohanlal Acharya** (Criminal Application No.4297 of 2005 in Criminal Appeal No.389 of 2002) and also pointed out that the said order has been confirmed by the Supreme Court. He states that almost 60% of the sentence period has already been undergone by the applicant and therefore, he ought to be released on bail. The learned Counsel for the applicant has also pointed out that the applicant has been acquitted under the charges punishable under MCOCA 1999.

3. The application is hereby allowed and it is directed that the applicant be released on bail on furnishing P.R. bond in the sum of Rs.50,000/- with 2 solvent sureties who shall be the permanent residents of Mumbai city. In addition the applicant is directed to report to the nearest police station i.e. Oshiwara Police station once in every week between 3.00 P.M. to 7.00 P.M. and as per the date fixed by the Senior Police Inspector of the said police station and he shall not leave Mumbai city unless he obtains written permission to that effect from the said Senior Police Inspector. Application stands disposed off.

(B.H.MARLAPALLE,J)